IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5696 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHANANJAY GADGIL ERSTWHILE VICE PRESIDENT

Versus

STATE OF GUJARAT

Appearance:

MR TS NANAVATI for Petitioners

MR ND GOHIL, APP for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 03/05/2000

ORAL JUDGEMENT

1. This is an application under section 482 of the Code of Criminal Procedure Code for the purpose of quashing the investigation as also the process issued by the learned JMFC, Vadodara. The second respondent herein-original complainant had filed a complaint against

the present applicants-accused, alleging offences under sections 420 and 392 read with section 114 of IPC, in substance alleging that the accused had taken forcible possession of the vehicle which was sold by the employer of the two accused (as a financing company) to the complainant under the finance scheme.

2. Much water has flown under the bridge since the notice was made returnable on 11th October 1999.

3. The original complainant has filed a pursis before the trial court, a certified copy whereof is produced here, on 12th October 1999 stating in substance that the dispute pertaining to the vehicle in question viz. Truck No.GJ 17-X-5400 has now been settled, and that there is now no pending dispute between the parties. The learned Magistrate declined to pass any orders on merits, but only took the pursis on record, on the ground that the matter was under investigation by the police under section 156(3).

4. Learned counsel for the petitioners also places on record a certified copy of the consent terms filed in a Civil Suit wherein the complainant was the original plaintiff, and wherein the subject matter of the dispute was also the very same truck. The basis of the consent terms is that the finance which was provided by the finance company, which was repayable by instalments with interest by the complainant, has been completely and totally repaid by the complainant, that therefore the finance company has no outstanding as against the complainant, that the truck in question is, therefore, free of all charges and the complainant is now the total and absolute owner of the truck in question and free to deal with the same, and that the possession thereof has been handed over to the complainant.

5. It is pertinent to note that in the present proceedings notice was issued returnable on 11th October 1999. Although the complainant was served, he chose not to appear. Thereafter rule was issued and made returnable on 13th December 1999. Even the notice of rule was served upon the second respondent-complainant, yet he has chosen not to appear. This conduct indicates that he has accepted the matter as settled and he has nothing further to say in respect of the present proceedings.

6. In the premises, it appears that the complainant is no longer interested in pursuing the complaint filed before the learned Magistrate. Therefore, it would be an

abuse of process to continue the proceedings any further against the present petitioners-original accused. Under the circumstances, the proceedings in Inquiry Case No.37/99 and of M-Case No.2/99 of Chhani Police Station, Vadodara are quashed and set aside. Rule is made absolute accordingly.

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